

Amend subsections (c)(3) and (f)(5), Section 7.00
Title 14, California Code of Regulations
Re: North Central Coast and Southern Districts General Regulations

- 1

Department staff conducted snorkel surveys of the area and found numerous juvenile and adult trout but found no evidence of ocean-run fish. In Spring, 2006, CMWD biologists submitted video evidence to the Department and NMFS showing adult steelhead passing through the fish ladder following several storm events. The video images have been verified to be adult steelhead returning to the Ventura River from the ocean by NMFS and Department staff.

Section 7.00(f)(5) allows trout to be taken for sport in all streams and tributaries (except those listed by name in the Special Regulations) above Twitchell Dam on the Cuyama River, above Bradbury Dam and below Gibraltar Dam on the Santa Ynez River, Robles Diversion on the Ventura River, and Rindge Dam on Malibu Creek. Current regulation also specifies the season and bag limit.

The proposed regulatory change will expand the closed waters on the Ventura River from the Robles Diversion to the base of Matilija Dam on Matilija Creek and to the Wheeler Gorge Campground operated by the United States Forest Service on North Fork Matilija Creek in Ventura County. The change will result in approximately 4 miles of stream being closed for the protection of Southern steelhead, which is listed as a federally-endangered species. This change will also make the freshwater sport fishing regulations consistent with the Endangered Species Act and the critical habitat designation on the Ventura River established by the Department of Commerce in August, 2005.

Minor changes are proposed to improve the clarity of the regulations.

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Section(s) Sections 200, 202, 205, 220 and 240 Fish and Game Code

Reference: Section(s) Sections 200, 205, and 206, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

The Steelhead Restoration and Management Plan for California. 1996. Department of Fish and Game.

Casitas Municipal Water District. May 8, 2006. Letter to Michael Flores, California Fish and Game Commission. Re: Ventura River Watershed Fishing Regulations.

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendment.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternative were identified for the North Central Coast District.

The following alternatives were considered and rejected for the Southern District.

1. Reduction of bag limit to 0 trout, terminal gear restricted to artificial lures with barbless hooks and opening fishing from Saturday preceding Memorial Day

through November 15.

2. Close the Ventura River and its tributaries to all fishing all year.

(b) No Change Alternative:

The no change alternative for the North Central Coast District would keep the regulations confusing for the public, the courts and the Enforcement Officers as well.

The no change alternative for the Southern District would not provide adequate protection for federally-endangered Southern steelhead and their progeny.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations clarifies existing regulations and increase protection for federally-endangered Southern steelhead and their progeny.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

Informative Digest/Policy Statement Overview

Currently Section 7.00(c)(3), Title 14, California Code of Regulations (CCR), states the tide waters of all streams except those listed by name in the Special Regulations are closed to fishing all year in the North Central District. If a person were to only look at this section in the regulations, without first looking at sections 6.32, 1.53 and 27.00, they would think the tide waters of all streams in this district were closed to fishing.

Additional language needs to be added to this section referring readers to look at the definition of inland waters as well as the definition of the Ocean and San Francisco Bay District. Once these two definitions are read it is clear that the tide waters of streams entering into the Ocean and San Francisco Bay district waters are open to fishing.

There are several popular fishing areas along rivers that have tidal waters within the North Central District. By adding a sentence directing readers to these two definitions, it would clarify what tidal influenced waters were open to fishing for both the public and enforcement officers.

Currently Section 7.00(f)(5), Title 14, CCR, has Robles Diversion Dam as the upper limit of anadromy on the Ventura River. A fish ladder and fishway for passing federally-endangered Southern steelhead was completed on the Robles Diversion Dam in Fall, 2003 through a joint effort by the Bureau of Reclamation, Casitas Municipal Water District (CMWD), National Marine Fisheries Service (NMFS), California Coastal Conservancy and the Department. In Spring, 2005, CalTrout requested that the Commission consider adoption of an emergency regulation change closing the waters between the Robles Diversion and the next barrier to anadromy, which is located at the Wheeler Gorge Campground in the Los Padres National Forest. In Summer, 2005, Department staff conducted snorkel surveys of the area and found numerous juvenile and adult trout but found no evidence of ocean-run fish. In Spring, 2006, CMWD biologists submitted video evidence to the Department and NMFS showing adult steelhead passing through the fish ladder following several storm events. The video images have been verified to be adult steelhead returning to the Ventura River from the ocean by NMFS and Department staff.

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